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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,285	01/31/2001	Shane Kuipers	Haworth Case 306	1964

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 01/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/773,285

Applicant(s)  
Shane Kuipers et al.

Examiner  
YVONNE M. HORTON

Art Unit  
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 15, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-24 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 8-10, and 13-16 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7, 11, 12, 17, and 18 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

Art Unit: 3635

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1,6,14 and 16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,037,538 to BROOKS in view of US Patent #6,158,179 to ACKERLY et al. In reference to claims 1,14 and 16, BROOKS discloses the use of a panel arrangement for an office furniture including a panel (16) and a rigid frame member (21) attached thereto; wherein the frame member includes a fixing channel having opposing spaced apart channel walls (51). The channel thickness, as seen in figure 8, is smaller than the panel (16) thickness prior to insertion therein and the walls (51) of the channel section (21) being deflectable to have a tight-fitting contact with the panel, column 4, lines 25-28. In further regards to claims 6 and 16, BROOKS also discloses the use of undercuts (54) to define a juncture between the channel walls (51) and side wall (50). BROOKS discloses the basic claimed arrangement except for the panel being glass. ACKERLY et al. teaches that it is known in the art to provide an office furniture with a glass panel (164). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the arrangement of BROOKS with the glass panel of ACKERLY et al. in order to provide the office with a space that is viewable. Further, regarding claims 14 and 16, the panel (16) of BROOKS is supported by connector parts (52). Hence, the modification of BROOKS by ACKERLY et al. would obviously have connector parts (52) that too would support the glass panel (164) of ACKERLY et al.

Art Unit: 3635

3. Claims 2-3,8-10,13 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,037,538 to BROOKS in view of US Patent #6,158,179 to ACKERLY et al. and US Patent #6,314,691 to TAKAGI et al. Regarding claims 1,8 and 15, BROOKS discloses the use of a panel arrangement for an office furniture including a panel (16) and a rigid frame member (21) attached thereto; wherein the frame member includes a fixing channel having opposing spaced apart channel walls (51). The channel thickness, as seen in figure 8, is smaller than the panel (16) thickness prior to insertion therein and the walls (51) of the channel section (21) being deflectable to have a tight-fitting contact with the panel, column 4, lines 25-28. In further regards to claims 6 and 16, BROOKS also discloses the use of undercuts (54) to define a juncture between the channel walls (51) and side wall (50). BROOKS discloses the basic claimed arrangement except for the panel being glass. ACKERLY et al. teaches that it is known in the art to provide an office furniture with a glass panel (164). TAKAGI et al. teaches the use of projections (18) formed on the inside of a channel member (3) to retain a panel therein. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the arrangement of BROOKS with the glass panel of ACKERLY et al. and the projections of TAKAGI et al. in order to provide the office with a space that is viewable and to ensure that the panel is retained securely in position. Regarding claims 3, 9 and 10, the projections of TAKAGI et al. directly contact the panel member ; however, the projection does not have a peak. Although the projection of TAKAGI et al. does not have a peak, rounding projections such that a peak is formed is old and very well known in the art. Further, the nature of the material used to for the channels of TAKAGI et al. and the projections of TAKAGI et al.

Art Unit: 3635

allow for the deflectability of the other channel wall opposite the projections. Also, the channel of BROOKS are deflectable on both sides. Hence, the addition of the projection would not hinder the deflectability of the BROOKS channel. Thus, it would have been obvious to one having ordinary skill in the art to round the projection of TAKAGI et al. To form a peak in order to create and ease of insertion of the panel member within the channel while also providing the assembly with resistance in maintaining the panel in place. The compressibility of the projection is determined by how tight or snug the panel is desired or required to fit within the channel member. In reference to claim 13, the channel of BROOKS, as modified by ACKERLY et al., is in face-to-face contact with the panel. Regarding claim 15, the panel (16) of BROOKS is supported by connector parts (52). Hence, the modification of BROOKS by ACKERLY et al. would obviously have connector parts (52) that too would support the glass panel (164) of ACKERLY et al.

***Allowable Subject Matter***

4. Claim 19-24 remain as being allowed for the reasons as indicated in the Official Action dated 10/23/02.

5. Claims 4,5,7,11,12,17 and 18 remain as being objected to as being dependent upon a rejected base claim, but would be allowable, for the reasons as indicated in the previous Official Action dated 10/23/02, if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3635

***Response to Arguments***

6. In regards to the applicant's concern of whether claims 5,11 and 12 should have been allowed, the examiner agrees that these claims were erroneously reported in the last Official Action. As such, the status of claims 5,11 and 12 have been updated accordingly.

7. Applicant's arguments filed 8/15/03 have been fully considered but they are not persuasive.

In regards to the applicant's argument that ACKERLY et al. cannot be used properly to modify BROOKS because BROOKS merely teaches the use of a wall panel, the examiner agrees that BROOKS teaches the use of a wall panel. However, it is the examiner's contention that a wall panel is just that a wall panel. Hence, ACKERLY et al. is being supplied merely as a teaching that glass wall panels are known in the art.

In regards to the applicant's argument that the system of BROOKS is a conventional wall system, the examiner agrees again in that the system of BROOKS is a wall system used as a partition or movable divider in an office environment.

In response to the applicant's argument that the system of BROOKS is merely a conventional wall system that uses a covering or tiles, without any firm support from the reference, the applicant is not allowed to make such an assumption. No where does BROOKS detail the use of wall coverings or tiles.

Regarding the applicant's argument that the raceway (21) of BROOKS is not a structural frame member, the examiner disagrees in that the raceway along with members (24) and (30) of BROOKS clearly forms a frame that hold a wall panel (16).


Art Unit: 3635

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding the applicant's argument that the glass of ACKERLY et al. as not being the same as the wall panel of BROOKS, the examiner disagrees. The applicant in his arguments admitted that the wall panel of BROOKS teaches a wall panel, clearly ACKERLY teaches a wall panel that is glass. The applicant is reminded that the glass panel of ACKERLY is merely used to teach that glass can be used to form a wall panel and has nothing to do with how the panel is positioned with regard to the frame members themselves.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH   
December 29, 2003